

FILED

JUN 22 2017

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

RAYMOND BENTLEY,

Plaintiff,

vs.

A/W MYRON BEESON, et al.,

Defendant.

CV 16-70-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered findings and recommendations in this case on June 1, 2017, recommending that Plaintiff Raymond Bentley's ("Bentley") Complaint be dismissed with prejudice for failure to state a claim. Bentley did not object to the findings and recommendations, and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the findings and recommendations, the Court finds no clear error in Judge Johnston's conclusion that Bentley has failed to state a claim upon which relief may be granted.

Accordingly, IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 12) are ADOPTED IN FULL. This case is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court shall CLOSE this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure. The Clerk of Court is also directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

IT IS FURTHER ORDERED that the Clerk of Court shall be directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Bentley has failed to state a claim upon which relief may be granted.

DATED this 22nd day of June, 2017.



Dana L. Christensen
Dana L. Christensen, Chief Judge
United States District Court